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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,433	02/23/2004	Todd Philip Domke		6356

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EXAMINER

COLE, LAURA C

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 02/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/783,433

Applicant(s)

DOMKE, TODD PHILIP

Examiner

Laura C Cole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "8" (Figure 2). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to because it is not clear as to what is being shown in the detailed view "12". Reference numerals should be pointing out structure of the invention. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

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and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The spacing of the lines of the specification is such as to make reading and entry of amendments difficult. New application papers with lines double spaced on good quality paper are required.

Claim Objections

4. Claims 1-2 are objected to because of the following informalities:

Claim 1 recites the limitation "the other end" in Line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the length" in Line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "said handles" in Line 7. There is insufficient antecedent basis for this limitation in the claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

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5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 requires two halves, each having a width of one bristle so that when the head is formed the bristles head will have a width of two bristles. Claim 2 depends from Claim 1 and implies additional bristles ("a third bristle section"). It is confusing. How can there be two halves each with a width of one bristle and an additional bristle section, and there still only being a bristle head width of two bristles as Claim 1 requires?

Also, it is unclear in Claim 1 whether the set of bristles is "one bristle" in width or really one tuft of bristles in thickness. The Applicant's figures display each half having a width of more than one bristle (see Applicant's Figures 4-5).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Foley et al., USPN 6,643,887.

Foley et al. disclose the claimed invention including a left and right halves (one half including A and B, another half including A' and B'), each of the halves having a set of bristles at one end (18) and a handle at the other end (10), each of bristles being one bristle in width and a number of bristles in length (see arrangement of bristles in Figure 1) so that when the bristle sets are joined, they form a head that is two bristles in width (Figures 1, Column 3 Lines 13-15, 52-64), each of the halves have means for joining one half to one another (20, 22), each of the halves having means for pivoting (along axis y-y, see Figures), the axis of movement running parallel to a length of the handles (see Figure 1, y-y axis is parallel to the length), and each set of bristles are shaped and sized so that when the halves are joined to one another, the sets of bristles will form a complete head (see Figure 2).

7. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Kihara, USPN D322,893.

Kihara discloses the claimed invention including a left and right halves (one half being having the leftmost left facing bristles in Figure 2, another half being the portion adjacent to that portion to the right, having rightward facing bristles), each of the halves having a set of bristles at one end (unlabeled, see Figure 2) and a handle at the other end (bottommost portion beneath the bristles), each of bristles being one bristle in width and a number of bristles in length (see arrangement of bristles in Figures 2-3) so that

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when the bristle sets are joined, they form a head that is two bristles in width (see Figure 3), each of the halves have means for joining one half to one another (see Figures), each of the halves having means for pivoting (hinges, see Figures), the axis of movement running parallel to a length of the handles (see Figures, the hinges are parallel to the length), and each set of bristles are shaped and sized so that when the halves are joined to one another, the sets of bristles will form a complete head (see Figure 8). There is a third bristle section (either one of the remaining rightmost portions of brush in Figure 2) having means in connecting with the portion for joining the third portion to the right and left halves (see seams in Figures), the third bristle section aligned with the bristle sets to form a unitary set of bristles (see Figure 8).

8. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Erkers, USPN 3,707,013.

Erkers discloses the claimed invention including a left and right halves (one half including 1 and 3, another half including 2 and 4), each of the halves having a set of bristles at one end (10, 11) and a handle at the other end (3, 4), each of bristles being one bristle in width and a number of bristles in length (see arrangement of bristles in Figures 1-6) so that when the bristle sets are joined, they form a head that is two bristles in width (Figure 6; Column 2 Lines 49-51), each of the halves have means for joining one half to one another (Column 2 Lines 52-57), each of the halves having means for pivoting (hinges 5, 6), the axis of movement running parallel to a length of the handles (see Figure 1, hinges 5, 6 are parallel to the length), and each set of bristles

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are shaped and sized so that when the halves are joined to one another, the sets of bristles will form a complete head (see Figure 6).

9. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Wolf, USPN 1,307,530.

Wolf discloses the claimed invention including a left and right halves (one half being the leftmost brush portion in Figure 1 the other being the rightmost brush portion in Figure 1), each of the halves having a set of bristles at one end (12) and a handle at the other end (10), each of bristles being one bristle in width and a number of bristles in length (see arrangement of bristles in Figures 1-2) so that when the bristle sets are joined, they form a head that is two bristles in width (Figure 2), each of the halves have means for joining one half to one another (17, 18), each of the halves having means for pivoting (hinge 13), the axis of movement running parallel to a length of the handles (see Figures 1-2, hinge 13 is parallel to the length), and each set of bristles are shaped and sized so that when the halves are joined to one another, the sets of bristles will form a complete head (see Figure 2).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Quintanilla et al., USPN 5,673,454 discloses a device similar to the claimed invention, having three sections with bristles (including a left and right "half") and means for joining the sections. Quintanilla et al. does not include that bristle sets being one bristle in width and does not include means for pivoting.

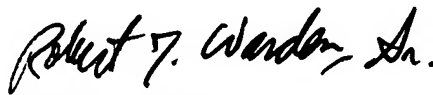
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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C Cole whose telephone number is (571) 272-1272. The examiner can normally be reached on Monday-Thursday, 7:30am - 5pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J Warden can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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LCC
01 February 2005


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